

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:18-CV-81-D

GREGORY SPELLMAN,)
)
Plaintiff,)
)
v.)
)
JIMMY MOORE, and)
JTM ACOUSTIC DRYWALL, INC.,)
)
Defendants.)

ORDER

On April 27, 2018, Gregory Spellman (“Spellman” or “plaintiff”), appearing pro se, applied to proceed in forma pauperis under 28 U.S.C. § 1915 [D.E. 1]. On May 2, 2018, the court referred the motion to Magistrate Judge Swank for frivolity review [D.E. 4]. On June 22, 2018, Spellman filed exhibits to his complaint [D.E. 5]. On October 19, 2018, Magistrate Judge Swank issued a Memorandum and Recommendation (“M&R”) [D.E. 7] and recommended that Spellman’s application to proceed in forma pauperis be granted and that the complaint be dismissed as frivolous. On October 24, 2018, Spellman filed a motion to amend his complaint [D.E. 8]. On October 26, 2018, Spellman filed a letter requesting that the clerk stop electronically filing his paperwork [D.E. 9], and he filed a motion for summary judgment [D.E. 10].


“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and plaintiff’s objections. As for those portions of the M&R to which plaintiff made no objection, the court is satisfied that there is no clear error on the face of the record. As for the objections, the court has reviewed the objections and the M&R de novo. Plaintiff failed to establish subject-matter jurisdiction, and his objections are overruled.

In sum, Spellman’s application to proceed in forma pauperis [D.E. 1] is GRANTED and Spellman’s complaint is DISMISSED as frivolous. Spellman’s motion to amend his complaint [D.E. 8] is GRANTED. Spellman’s motion for summary judgment [D.E. 10] is DISMISSED. The clerk shall close the case.

SO ORDERED. This 3 day of December 2018.



JAMES C. DEVER III
United States District Judge